

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #8	CCRB Case #: 201901208	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/06/2019 3:00 PM	Location of Incident: [REDACTED]	Precinct: 120	18 Mo. SOL 8/6/2020	EO SOL 3/23/2021	
Date/Time CV Reported Fri, 02/08/2019 4:48 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 02/08/2019 4:48 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Daniel Castaldo	06682	950173	PBSI
3. An officer			
4. POM Robert Dominicci	06048	955888	120 PCT
5. POM Eric Johnson	07704	956777	120 PCT
6. POM Joseph Innocente	14311	956761	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Shane Mathai	10025	950846	PBSI
2. POF Raychel Campanellarivera	07754	955780	120 PCT
3. POM Alexander Deguzman	02254	950292	PBSI
4. POM Paul Lantieri	03368	956823	PBSI
5. POM Stanislav Zubyk	00202	957307	PBSI
6. SGT Christophe Rinelli	03495	949545	120 PCT
7. POM Frank Vega	11143	962150	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
D.POM Eric Johnson	Force: Police Officer Eric Johnson used physical force against § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b)	
F.POM Joseph Innocente	Force: Police Officer Joseph Innocente used physical force against an individual.	
G.POM Daniel Castaldo	Force: Police Officer Daniel Castaldo used pepper spray against individuals.	
H.POM Robert Dominicci	Force: Police Officer Robert Dominicci used physical force against an individual.	

### Case Summary

On February 6, 2019, § 87(2)(b) filed this complaint with IAB on behalf of her daughter, whose name was not provided. On February 8, 2019, § 87(2)(b) filed a complaint with the CCRB regarding the same incident on behalf of her daughter, § 87(2)(b).

On February 6, 2019, at approximately 3:00 p.m., officers from the 120<sup>th</sup> Precinct and Patrol Borough Staten Island (PBSI) Ferry Unit and possibly officers from other commands responded to a large group of students fighting at the § 87(2)(b) in Staten Island. As the officers attempted to disperse the crowd, officers allegedly took § 87(2)(b) to the ground and kicked her (**Allegation A: Force**, § 87(2)(g); **Allegation B: Force**, § 87(2)(g) § 87(2)(b)). Once officers handcuffed § 87(2)(b) an officer allegedly told § 87(2)(b) “Shut the fuck up” (**Allegation C: Discourtesy**, § 87(2)(g) § 87(2)(b)).

During the incident, PO Eric Johnson of the 120<sup>th</sup> Precinct and other officer(s) pushed § 87(2)(b) to the ground, brought her to a police vehicle, and then handcuffed her (**Allegation D: Force**, § 87(2)(g); **Allegation E: Force**, § 87(2)(g) § 87(2)(b)).

As the officers were performing crowd control, PO Joseph Innocente of the 120<sup>th</sup> Precinct pushed § 87(2)(b) (**Allegation F: Force**, § 87(2)(g) § 87(2)(b)).

At some point, PO Castaldo discharged pepper spray towards a crowd of individuals and PO Dominicci kned § 87(2)(b) (**Allegation G: Force**, § 87(2)(g) § 87(2)(b); **Allegation H: Force**, § 87(2)(g) § 87(2)(b)).

§ 87(2)(b) and § 87(2)(b) were arrested during the incident (Board Review 17-21).

The investigation is in possession of video footage obtained from the St. George Staten Island Ferry Terminal (Board Review 15). The investigation is not in possession of additional video footage. BWC footage was not released because the CCRB was not in possession of signed Unsealing Orders from any of the juveniles and their guardians.

### Findings and Recommendations

**Allegation (A) Force: Officers used physical force against** § 87(2)(b)

**Allegation (B) Force: Officers used physical force against** § 87(2)(b)

**Allegation (C) Force: An officer spoke discourteously to** § 87(2)(b)

Starting at around 3:17:00 from surveillance video footage obtained from the Staten Island Ferry Terminal (camera angle: 096-PTZ Bus Ramp D/Taxi ramp) shows numerous officers attempting to disperse a large crowd of approximately over a hundred students at the location (Board Review 15).

In her CCRB statement, § 87(2)(b) stated that she was with her friends § 87(2)(b) and § 87(2)(b) when her friend, § 87(2)(b), was fighting another individual (Board Review 03-04). During the fight, § 87(2)(b) pulled a female away from the fight and the female struck § 87(2)(b). When officers arrived, the

officers grabbed and pushed people away to break up the fight. During the commotion, an unidentified female officer grabbed and pulled § 87(2)(b)'s arm. In response, § 87(2)(b) pulled away from this officer. § 87(2)(b) could not describe this officer during her interview. Several officers subsequently approached § 87(2)(b) and took her to the ground. While § 87(2)(b) was on the ground, officers kicked § 87(2)(b) an unspecified number of times and an officer told § 87(2)(b) "Shut the fuck up." In her phone statement, § 87(2)(b) stated that she could not describe the subject officers (Board Review 01).

In a phone statement, § 87(2)(b) stated that officers "jumped" § 87(2)(b) held § 87(2)(b)'s hands behind her back, and went on top of § 87(2)(b) (Board Review 02). § 87(2)(b) was uncooperative with providing a sworn statement during the investigation.

In his CCRB interview, § 87(2)(b) stated that he saw officers take § 87(2)(b) to the ground, but he did not see what occurred after she was on the ground (Board Review 05).

§ 87(2)(b) was uncooperative with providing a sworn statement during the investigation and she did not say whether she saw this occurrence during her phone statement (Board Review 06).

None of the additional witnesses provided statements to the CCRB in regards to this incident.

PO Vega, PO Johnson, PO Castaldo, PO Dominicci, and PO Innocente provided generally consistent accounts in that they observed over 100 people at the terminal with multiple groups fighting while the officers attempted to break up the crowd (Board Review 07-11). All of the officers aside from PO Vega stated that the crowd was noncompliant by refusing to leave. PO Dominicci also described the crowd as aggressive and hostile. All of the aforementioned officers stated that they did not recognize § 87(2)(b) during their CCRB interview. PO Vega recalled officers handcuffing a female on the ground, but PO Vega did not assist with this arrest and did not see officers use force against this individual (Board Review 10). All of the officers interviewed either denied saying "shut the fuck up," or did not hear an officer say this. None of the officers had an independent recollection of the incident involving § 87(2)(b).

According to § 87(2)(b)'s arrest report, PO Vega informed the arresting officer that § 87(2)(b) was part of the large fight which obstructed vehicle and pedestrian traffic and resulted in three officers injured (Board Review 17).

During the interview, PO Vega did not recall preparing TRI report #2019-120-34, which lists him as the reporting officer (Board Review 25). PO Vega denied informing any supervisors of the actions he took during this incident. The TRI report noted that PO Vega "forced" § 87(2)(b)'s hands behind her back; PO Vega denied making any physical contact with § 87(2)(b).

Video footage obtained from the Staten Island Ferry terminal does not capture § 87(2)(b)'s arrest.

§ 87(2)(g)

**Allegation (D) Force: Police Officer Eric Johnson used physical force against § 87(2)(b)**

**Allegation (E) Force: Officers used physical force against § 87(2)(b)**

In her phone statement, § 87(2)(b) stated that officers pushed her to the ground and then escorted her to a police vehicle (Board Review 06). At the police vehicle, the officers sat on her as they handcuffed her. § 87(2)(b) was uncooperative with providing a sworn statement during the investigation.

None of the other victims/witnesses in this complaint stated that they observed § 87(2)(b)'s arrest.

In his interview, PO Johnson stated that § 87(2)(b) refused multiple commands to backup and he assisted other officers with handcuffing her (Board Review 08). PO Johnson did not recall what he did to handcuff § 87(2)(b) but he denied forcibly taking her to the ground. PO Johnson also recalled § 87(2)(b) resisting by flailing her arms and kicking her legs as they placed her in the police vehicle. PO Johnson and the other officers got § 87(2)(b) to stop kicking by "talking her down". PO Johnson did not believe he used any force to get her to stop kicking. PO Johnson denied sitting on top of § 87(2)(b) and did not see any other officer sit on top of her.

PO Johnson prepared TRI report number 2019-120-34 which noted that he forcibly took § 87(2)(b) to the ground (Board Review 23). Although PO Johnson initially denied forcibly taking § 87(2)(b) to the ground, PO Johnson stated that he did not recall the force he used against § 87(2)(b) after he reviewed his TRI report during his CCRB interview.

Video footage obtained from Staten Island Ferry terminal does not capture § 87(2)(b)'s arrest.

§ 87(2)(g)

§ 87(2)(g)

**Allegation (F) Force: Police Officer Joseph Innocente used physical force against**

§ 87(2)(b)

A clip from one of the surveillance cameras from the Staten Island Ferry Terminal (20-PTZ BUS RAMPS C/D), shows PO Innocente walks toward a male and pushes the male back (Board Review 13). PO Innocente and the male subsequently walk out of the view of the camera. Another clip from another surveillance camera from the Staten Island Ferry Terminal (071-PTZ BUS RAMP D-1) depicts the same incident at a different angle (Board Review 12).

In his CCRB statement, PO Innocente stated that the male in the video refused to leave and so he pushed the male to get him to leave (Board Review 11). PO Innocente told the male to leave and to walk off approximately five times prior to pushing him. PO Innocente only approached that male in the video because he was the only civilian talking to PO Innocente. PO Innocente did not recall what the male specifically said, but PO Innocente recalled the male saying something to the effect of “Fuck you. I’m not leaving.” PO Innocente did not recall what happened to the male after he pushed him.

§ 87(2)(g)

**Allegation (G) Force: Police Officer Daniel Castaldo used pepper spray against individuals.**

A clip from one of the surveillance cameras, beginning at 00:10 of the video, from the Staten Island Ferry Terminal (071-PTZ Bus Ramp D-1) shows PO Castaldo spraying his pepper spray in front of him in the direction of a group of individuals standing in front of him (Board Review 14). Immediately afterwards, many of these individuals run away. It is unclear if any of the civilians were affected by the pepper spray.

In his CCRB statement, PO Castaldo stated that he sprayed a “test spray”, meaning he did not spray it towards anyone (Board Review 07). PO Castaldo stated that he sprayed it towards the street to let people know that he had pepper spray, to get people to disperse, and for officers’ safety given the large number of students. PO Castaldo stated that members of the crowd refused to move and cursed at him by telling him to go fuck himself. PO Castaldo stated that he was trained to use pepper spray to disperse a crowd during “Disorderly Control Training” at the Police Academy in 2011.

As noted above, all of the officers, aside from PO Vega, stated that the crowd refused to disperse. PO Dominicci described the civilians as “aggressive and hostile,” yelling, “Go fuck yourselves, this is free speech, we can do whatever we want. This isn’t your property, you have no authority.”

Patrol Guide Procedure 221-07 states that officers may use pepper spray in order to overcome active resistance and gain control over someone being brought into custody or placed under arrest (Board Review 34). It also states that officers are not to use O.C. pepper spray on subjects who passively resist (i.e., minimal physical action to prevent a member from performing their lawful duty) and are to “avoid discharging O.C. pepper spray indiscriminately over a large area for disorder control. (Members who are specifically trained in the use of O.C. pepper spray for

disorder control may use O.C. pepper spray in accordance with their training, and within Department guidelines, and as directed by supervisors.).”

§ 87(2)(g)

**Allegation (H) Force: Police Officer Robert Dominicci used physical force against**

§ 87(2)(b)

In his CCRB statement, PO Dominicci stated that he observed an officer stick his hand out to prevent a male, described as a 5’10” tall stocky or muscular 16-18-year-old male, from coming any closer (Board Review 09). In response, the male took a bladed stance, balled his fists, which he held down by his waist, and said, “Don’t touch me, get away from me, you can’t do this.” PO Dominicci immediately grabbed the male on his chest area in order to arrest him for disorderly conduct, refusing to disperse, and for violating the Riot Act. After PO Dominicci grabbed the male by his chest, the male grabbed PO Dominicci’s hands and hunched forward to pull away. At this point, PO Dominicci feared that the male was attempting to reach for his firearm since he could not see the male individual’s hands and his head was near PO Dominicci’s waist. PO Dominicci, who was still holding the individual by his chest area, struck the individual in the face with his knee. He did not recall how many times he struck the individual with his knee. PO Dominicci did not know if any civilians attempted to interfere. PO Dominicci subsequently brought the male face down to the ground. At that point, officers assisted PO Dominicci in pulling the male’s arms behind his back. The male pulled his arms into his chest and was “wriggling around on the floor.” PO Dominicci’s chest was on the male’s back as PO Dominicci pulled the male’s arms behind his back. PO Dominicci did not use any other force to pull the male’s arms behind his back.

PO Dominicci was noted as the reporting officer on the handwritten TRI report #2019-120 (Board Review 24). The report noted that a 5’10” tall, 260 pounds, 16-year-old black male “pushed/shoved” and “wrestled/grappled” officers and PO Dominicci used a hand strike and forcible take down against the individual. The male’s name and contact information were redacted from the report. According to IAB, the computerized version was voided for unknown reasons. During the interview, PO Dominicci stated that he only prepared one TRI report; he denied using hand strikes and did not know why it was noted that hand strikes were used.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) has been a party (Board Review 30-33).
- PO Castaldo has been a member of service for eight years and has been a subject in 11 CCRB complaints and 26 allegations, of which seven were substantiated:
  - 201311018 involved substantiated allegations of a retaliatory summons, discourtesy (word), and frisk against PO Castaldo. The Board recommended charges and the NYPD imposed a forfeiture of five vacation days.
  - 201312036 involved substantiated allegations of a retaliatory summons, a search, and a stop against PO Castaldo. The Board recommended charges and the NYPD imposed a forfeiture of five vacations days.
  - 201509205 involved a substantiated an allegation of physical force against PO Castaldo. The Board recommended charges and PO Castaldo was found not guilty at trial; the NYPD imposed no penalty.
  - § 87(2)(g)
- PO Dominicci has been a member of service for five years and has been a subject in five CCRB complaints and 15 allegations, none of which were substantiated. § 87(2)(g)
- PO Johnson has been a member of service for five years has been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- PO Innocente has been a member of service for five years and has been a subject in one other CCRB complaint with one allegation. § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of July 23, 0219, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 16).
- According to the Officer of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 26).
- According to the Officer of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 28).
- According to the Officer of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 27).



- § 87(2)(b) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date